W H S WASHTENAW IMPRESSIONS W H S

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EARLY CRIMINAL CASES IN WASHTENAW COUNTY

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If there is anything of interest or value in what follows, full credit must be given to the Pioneer Society of Washtenaw County who in 1881 appointed a Historical Committee that compiled and published a complete and exhaustive history of the development and evolution of our County, and also to that very fine lady who is our capable County Clerk, Mrs. Louella Smith, who most obligingly resurrected musty and dusty files, journals and ledgers, so that your speaker could have the benefit of the original criminal records of the County.

The records disclose that the first trial to be held in Washtenaw County was in the year 1827. The forum was the County Court for the Territory of Michigan, Honorable Samuel Dexter presiding. It may be of interest to review the first indictment returned in Washtenaw County; it reads as follows:

> Michigan Territory County Court of the County of Washtenaw
>
> At the January term in the year of our Lord, 1827, the Grand Jurors of the United States of America inquiring in and for the body of the County of Washtenaw, aforesaid, upon their oaths present that Erastus Priest, late of the County of Washtenaw, aforesaid, in the Year of our Lord 1827, at Ann Arbor, in the County and Territory aforesaid... did then and there sell for money, rum and wine by less quantity than one quart; he, the said Erastus Priest, then and there not having a license or permit to keep a tavern, against the peace and dignity of the United States of America and against the Statute of the Territory of the State Michigan in such cases made and provided.

Upon the reading of the indictment, a jury was empaneled, and the case proceeded to trial. The people presented seven witnesses to appear against the Defendant while only one witness testified in his behalf. According to the records of the clerk, "The case was advocated ably by the respective attorneys. The jury retired about two hours and said severally that the Defendant was not guilty." While not wishing to detract from the able presentation of the case on the part of the Counsel for the Defendant, the record shows that the Defendant himself was not lacking in enterprise, because when the Court found itself

embarassed for lack of accomodations in which to dispense justice, the defendant courteously offered his own dwelling for that purpose, and it would take a hanging jury indeed to convict a man in his own parlor.

The above case constituted the docket for the year 1827. Nor were there any trials in the year 1828. In 1829 the county territorial court was again held in the village of Ann Arbor and continued to hold regular sessions until 1836, when it was supplanted by the forerunner of our present Circuit Court.

When the Court convened in 1829, one of the first prisoners to be haled before the bar was our old friend, Erastus Priest, who this time had managed to get himself in a little more serious difficulty. The indictment charged that he had committed assault and battery upon a fellow citizen. Mr. Priest, no doubt remembering his singular success on his previous appearance, demanded a jury trial and was promtly found guilty. Needless to add that on this occasion the trial was not held in his home. It appeared, however, that sentence imposing a twenty dollar fine was imposed while Defendant was out of the Court room. This, along with other alleged errors, resulted in a reversal of the verdict and Mr. Priest was discharged from custody.

One of the first cases to be brought in the name of the people of the State of Michigan might be of some interest to the Society. It appears that in 1836 one John Hinøkley was indicted on a charge of gaming. The first count in the indictment charged that John Hinkley had won twenty dollars at gaming and the second count charged that John Hinkley had lost twenty dollars at gaming. At the trial, however, the evidence showed only that John Hinkley had won a dollar and a half. The jury brought in a general verdict of guilty and the defendant was fined seven dollars and a half. This verdict also was reversed on appeal due to the fact that the jury did not make a finding as to the amount won and the statute of that period provided that the fine be five times the amount of the winnings. Thus the learned judge, because of the jury's failure to find the amount won, had no figure on which to base his fine.

A most unusual case of assault and battery is to be found in the files for the year 1836. It appears that one Edward Mundy, then candidate for the office of Lieutenant Governor, became somewhat embroiled in a political argument with one Mark Howard of this city. The circumstances of the incident are well related in an affidavit filed with the court by Mark Howard, as follows:

> I, Mark Howard, of Ann Arbor, in said county of lawful age being duly sworn depose and say that on the 12th day of September last at the Washtenaw house in said Ann Arbor, it being an election day your deponent was conversing with Bob Statford on some political subject endeavoring to convince him of the truth of the position your deponent had assumed when Edward Mundy interfered and said that "the remark of your deponent was a lie" without any provocation whatsoever from your deponent. This deponent then said to the said Mundy that

"If Edward Mundy the second officer of the state would barter away the best interests of the State of Michigan he would be no better than a Benedict Arnold" Upon which the said Mundy declared that if your deponent repeated that remark he would kick him. Your deponent immediately repeated the remark and the said Mundy violently kicked the deponent and publicly abused him in the barroom of said house and this deponent further says that several persons belonging to the said Washtenaw House disapproved of the course pursued by the said Mundy and approved of your deponent's conduct. ...further deponent saith not.

It appears that Mundy paid a five dollar fine but the record fails to reveal whether he pleaded guilty or was given a trial, although in my humble opinion Mundy probably pleaded guilty, because on the facts as stated by the complaining witness it seems almost inconceivable that he would have been adjudged guilty by a jury.

During the first fifteen years that Courts were in operation there were remarkably few crimes of a violent or vicious nature. Most of the indictments contain charges of simple larceny, assault and battery, drunkenness, and such crimes of a less serious nature. However, in 1843, Washtenaw County had its first murder. Patrick Dunn was shot in the heart by a neighbor while on his way to work. It appears that the parties had been quarelling for some time and that Dunn was a complaining witness against the defendant, Chorr, in an assault and battery action then pending. The murder was undoubtedly premeditated and Chorr was brought to trial in the following November, and found guilty of Murder in the first degree. Chorr was sentenced to hang, and the militia was requested to send a detachment to attend the execution, but in the words of the history, "they were not needed, for a few days after the sentence Chorr escaped and was never again heard from."

Another fourteen years elapsed before Washtenaw County was again the scene of violent death and oddly enough, the year 1857 was an unusually bloody one for the county, as four murders were committed in that year. In February of that year one Simon Holden was walking to his home after returning from Detroit by train when he was waylaid by two men who demanded his money. He refused to surrender it and was fatally wounded. Robert Fuller and Frank Walker were apprehended and indicted. They were tried before a jury and found guilty of murder in the first degree and sentenced to life imprisonment. They were taken to the penitentiary, but a year later they were returned to the Ann Arbor jail, inasmuch as the Supreme Court had ordered a new trial. But, as in the case of Chorr, the first murderer in the County, they found no difficulty in escaping and they were never recaptured.

This year also can be remembered for the commission of two of the most brutal murders in the history of our County. A Mrs. Henrietta Wagner and her three-year-old son were found dead in bed, having been beaten to death with a hatchet, by Mr. Wagner. A coronor's inquest was held, and you might be interested in the Coronor's report as set forth in the history. It reads as follows:

It seems that Wagner and his wife had not been living very happily together for some time, and on the night in question, Mrs. Wagner had retired and Wagner, coming in, went to the bed and said Good Night and attempted to kiss her, but she resisted and said Go away, you are a crazy man and I cannot live with a crazy man. He said Give me my money and I will go. She did not answer and Wagner went and got the money and started to leave, when Mrs. Wagner said I will cut you to pieces before you go with that money. That enraged Wagner who took a hatchet from the wood box and went toward her. She then called him a dog and told him to keep away. He then brandished the hatchet to frighten her, whereupon Mrs. Wagner and the child both cried Fire and Murder and she clutched him by the throat. He hit her accidentally when she fell and said Oh My. Wagner, seeing what he had done and thinking that she could never get well was seized with a desire to be rid of her forever, and struck her several times. He then left the house and went to the jail.

At the trial Wagner stated that he did not remember striking the child. The jury, however, must have been convinced in spite of the coronor's report that the crime was premeditated, inasmuch as they found him guilty of murder in the first degree and he was sentenced to the penitentiary for life.

In 1864 occurred a murder that is notable because of the nature of the sentence imposed. Two gentlemen by the names of Bentley and Roche became involved in an argument over a card game. Roche stabbed Bentley who died as a result of the wound. Roche was charged with manslaughter and tried and found guilty by a jury. The sentence imposed, however, believe it or not, was a fine in the amount of twenty-five dollars.

I would like to recite one more episode from the old records and this has to do with the murder of a man by the name of O'Grady. In 1878 a Negro by the name of Morand built himself a little mud shack about two miles from Dexter. It soon developed that the younger bloods of the village thought that it was great sport to go out and make life miserable for that gentleman. On this occasion a group of perhaps six or seven paid him a visit and indulged in such pastimes as the attemped demolition of the hut and the firing of a rifle in his general direction. Morand brought the horseplay to an abrupt conclusion by picking up an axe and killing O'Grady who happened to be within his reach. It was decided after investigation that Morand was insane, it being claimed that he professed to have the power to foresee the future. He was thereupon committed to the institution at Kalamazoo. In judging this procedure some seventy years later your speaker wonders if a jury would have found Morand guilty of murder. Maybe commitment to an institution for the insane was the only answer to a problem that must have caused the prosecuting attorney of that time no end of trouble.

All in all, the first fifty years of trials in Washtenaw County there were eighteen cases involving homicide of one degree or another, and in all cases but one the defendants were found guilty.

Having considered certain specific criminal cases that were tried during the first fifty years that the courts were in session in Washtenaw County, it might be of interest to you to review the cases brought before the court during that period. According to the History of Washtenaw County, and an examination of the court records extending over a period of fifty-four years, it appears that there have been bills of indictment found against 553 persons, distributed as follows:

Violation of liquor law	19
Assault and battery	40
Default on bail	5
Murder, manslaughter	6
Murder, in the first degree	11
Murder, in the second degree	1
Forgery	15
Malicious trespass	2
Assault and battery with intent to kill	12
Arson	2
Burglary	44
Passing counterfeit money	11
Rape	9
Incist	2
Robbery	1
Bigamy	2
Placing obstruction upon railroads	2
Breach of prison	2
Obtaining money under false pretenses	3
Assaulting an officer	1
Setting fire to timber	1
Breaking jail	2
Bastardy	1
Adultery	2
Mayhem	1
Concealing a death of a child	1
Malicious intent to do bodily harm	1
Poisoning	1
Maliciously injuring a dwelling house	8
Burning property to obtain insurance	1
Drunk and disorderly	148
Receiving stolen property	2
Slander	1
Stealing a ride on a railroad	2
Defrauding a boarding house	1
Threats	1
Keeping a house of prostitution	1
Other crimes	10

From a review of the above record we can see that during the first 54 years that Court was in session, there was an average of 10 indictments a year. It is also significant to note that approximately half of the 553 persons indicted would, at the present time, be charged with misdemeanors, thus bringing the average of felony offenses to 5 a year.

Ann Arbor, Michigan
February 13, 1948

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